

But, aside from all of this, there remains a much bigger and more important issue involved in the case. That is the issue of what the workers' now former union was doing in the Continental bankruptcy as an agreeing party to the \$5 million awarded to PBGC and EPA/IDEM, and the union being allowed to take \$559,000 from the workers' share of the divvy without ever filing proper motions to intervene or a proof of claim to participate in the case. The union was a director of the bankrupt entity who participated in decisions under-funding the pension plan and insurance agreement. It's ludicrous to think that a director of a bankrupt entity has the right to represent and settle claims of creditors against the bankrupt entity. In short, the union used the Continental bankruptcy to avoid liability against itself - plain and simple. Government oversight officials and authorities were crawling all over this case but paid no attention to this obvious scam and fraud.

Now, why did our government allow this scam and fraud to ripen? Were there quid-pro-quo agreements between the union, PBGC and EPA/IDEM? Did our government give comfort and aid to a corrupt, illegal enterprise? The answer, to the latter at least, is yes!

After Continental was extinguished by operation of law, the union was no longer a legal entity, with respect to Continental, entitled to represent anyone or anything in the Continental case. But our government did absolutely nothing to uphold the laws of the United States or its constitution. It did not challenge the union's phony motion to intervene as a creditor in the Chapter 11 case. It did not utter a word about the union's failure to intervene or bring forward its absurd motion in the Chapter 7. It did not utter a word about the 1971 U.S. Supreme Court ruling restricting union representation to "employees", not former employees and retirees; or the lack of a proof of claim or legitimate standing of the union as a creditor, a legal entity, a labor union, a director, or anything else.

Likewise, our government did absolutely nothing to investigate the union's involvement in the administration of the pension plan, breaches of fiduciary duties, or the unpaid insurance claims before Continental closed. Nor did it investigate complaints raised about that issue after Continental closed. In sum, our government was content to let the union do whatever it wanted just so long as the union agreed to share the bankruptcy divvy with PBGC and EPA/IDEM.

It would be an act of negligence and stupidity on my part if I did not raise issue with the sale of the Continental property for \$10 to a man with no visible resources to assume the tax and environmental liabilities; and the removal of hundreds of thousands of dollars worth of scrap from the site without a cent being paid on the liability.

The U.S. Department of Justice filed an objection to the sale because it obviously smelled a skunk in the woodpile. However, the objection was pulled and the DOJ just simply walked away. There was absolutely no follow-up or oversight of anything by the DOJ after that point forward. No one was monitoring the new owner's failure to meet his tax and environmental obligations, that were spelled out in the DOJ's objection, or the removal and sale of hundreds of thousands of dollars worth of scrap from the site without a cent going toward the outstanding liabilities that were clearly a part of the purchase package.

If it hadn't been for the dedicated vigilance of a number of former workers and the reporting and complaints to the proper officials of the scrap removal activity taking place 24 hours a day, \$10 million worth of scrap would have been removed and sold without a cent going toward the liability.

And to point out the dilemma of the former workers in this matter, they were interested in using the value of their bankruptcy claims to purchase the site in hopes of finding someone to re-open the facility. However, their efforts were trashed with threats from the court that they would be held in contempt, held to the highest order of scrutiny, and put in jail if they failed to meet the tax and environmental obligation that went along with the deal.

Why this same standard was not applied to the current owner is a complete and total mystery. In short, the ex-workers were told to keep their noses out of the Continental case or go to jail. Yet a man with no money and highly questionable motives simply went in and plunked \$10 on the table and walked away

with hundreds of thousand of dollars from the removal and sale of scrap.

The sale of Continental was not a private transaction. It was held in the public domain of a bankruptcy court where everything is supposed to be out in the open for all to see, and it was finalized by an order of the court. As such, the sale remains a matter of public concern and open to scrutiny. Thus, the public has every right to know how a man with no money walked into the U.S. Bankruptcy Court, with a team of lawyers, accountants and business advisors in tow, plopped down \$10, and then removed and sold hundreds of thousands of dollars worth of scrap from the site and never paid a dime of the obligation he incurred in the public sale of the property.

At the very least, the current owner is in violation of the court order and should be held in contempt. Moreover, being in contempt would be the window of opportunity for authorities to investigate the current owner, his motives, whether he acted alone or in concert with others, whether it involves political figures from the community, etc., etc.

To be sure, the Continental case is overflowing with abuses of power and authority, negligence, and pure stupidity from beginning to end by oversight officials and authorities who simply did not do their jobs to uphold the laws of the United States or its Constitution. The Continental workers were entitled to investigations they never got. And they were deprived of their Constitutional right to be represented by a lawyer in a court of law.

Instead, they were purportedly represented by a corrupt, illegal enterprise posing as a legal labor union, a director of the bankrupt entity no less, that was protecting and representing its own self-serving interest in the face of potential lawsuits for breaches of fiduciary duties, etc. The workers were lied to repeatedly both before and after Continental closed. They were duped into giving Continental over \$30 million on the lies that their pension plan was fully funded when in fact it was in shambles. Had the workers known what PBGC was doing and the extent of plan under-funding, they would never have given Continental a dime. In fact, they could have demanded at the bargaining table that the \$30 million been put into the pension plan.

Or they could have forced the liquidation of Continental at that time when there were still assets available to cover the pension liability had the workers been given all the facts to make an informed decision about giving Continental concessions. In short, the workers paid through the nose for the continuation of operations of Continental from 1982/1983 to 1986 through the depletion of assets available to pay their pensions. The workers never had the chance to make the right call because of all the lies they were told throughout.

And regardless of what some might argue about the workers' strength, importance to Continental's survival and continuation of operations, the workers could have thrown a big monkey-wrench into the gears at any time because of the breach of the pension agreement, had they known the truth, which is the reason for all the lies. In fact, when they were finally told in December 1986 that their pension plan was in shambles, the workers were steadfast in telling Continental, the bankruptcy court and the union to "shut the damn place down" because they were done giving and fed up with all the lies.

And in the final wrap-up of the Continental bankruptcy, apparently due to a miscalculation by the trustee and his lawyers and accountants, there was almost a half-million dollars left after everyone had been paid. The trustee and his attorneys laid claim to the money because no one else came forward to stake a claim for a share. Why didn't PBGC or EPA/IDEM go after that money? By the settlement agreement the trustee and his attorneys were paid every dime they were entitled to receive yet they got another half-million dollars because no one else came forth to stake a claim for it. This is sickening and repulsive. PBGC and EPA/IDEM had no problem taking money away from the former workers in the bankruptcy case yet did absolutely nothing to stake a claim for what was left over and belonged to no one. Why?

And it was all done with the full cooperation and purported oversight of government officials and authorities that were not doing their jobs. Now, a number of people would like to say that whatever the union did was not their concern or responsibility, but that does not apply to a legal proceeding in a court

of law. Lawyers are obligated by the code of professional conduct and rules of jurisprudence to police themselves and other lawyers. So, whatever the union did was because other lawyers, and government officials and authorities let the union get by with it.

Thus, it's long past time that the former Continental workers receive at least part of their due. If the property is going to be given away free to anyone, then it should be given to the former workers. If the property was sold for \$10 to the current owner so he could make hundreds of thousands of dollars removing and selling off scrap, then the workers should have been allowed to bid \$20 and reap the benefit without liability like the current owner did.

At the very least, the Continental workers, and taxpayers, are entitled to full accounting and disclosure before the property is given to anyone. They are entitled to know whether the current owner acted alone or in concert with others, whether political figures were involved, how much scrap he removed and sold, how much money he made and where this money went. And, why Continental was allowed to under-fund the pension plan in violation of the controlling documents and instruments governing the plan, and the law. Why their local union president was given a pension while still working and drawing a paycheck, yet their applications for retirement were ignored. What their union did to permit or encourage Continental to under-fund the pension plan and insurance agreement. How the ex-workers were legally represented in the bankruptcy case by a defunct union, a now former director of Continental, and how and why the union was granted \$559,000 from the estate to settle claims the union participated in and did absolutely nothing about while Continental was still living.

And why none of the above was investigated by the appropriate authorities and officials, and why our government gave comfort and aid to an illegal, corrupt enterprise to defeat the laws of the United States and its Constitution.

Prepared by Phil Kauble  
1024 South McCann Street  
Kokomo, Indiana 46902

CC U.S. Senator Richard G. Lugar  
U.S. Senator Evan Bayh  
Mayor Jim Trobaugh  
Howard County Commissioners  
Kokomo Perspective  
Kokomo Tribune

**ATTACHMENT 6**  
**Photos Documenting Site Conditions**







Markland Quarry - abandoned tanks and unvegetated area on landfilled portion.





Markland Quarry - drums scattered on landfilled portion.  
Quarry pond, view toward landfilled portion.





Markland Quarry - large abandoned tank in former rail unloading area.  
Drums and decontamination pool left from EPA removal action.

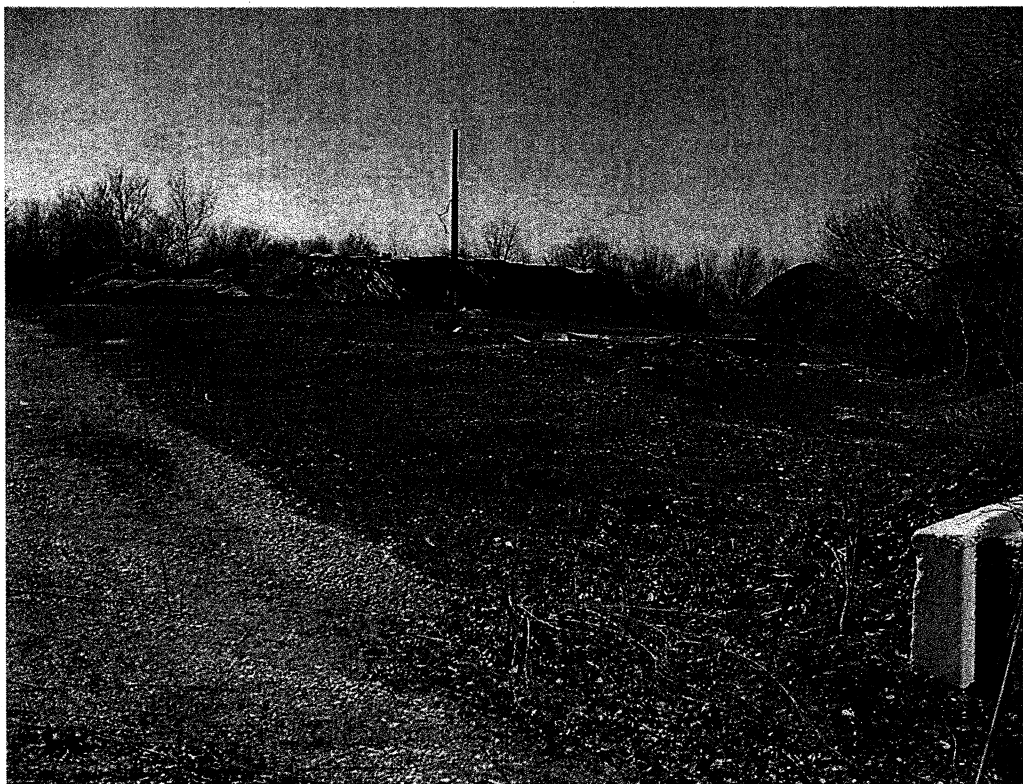




Drums stored in Markland Quarry area from EPA removal action.  
Large cut in Markland Quarry fence.







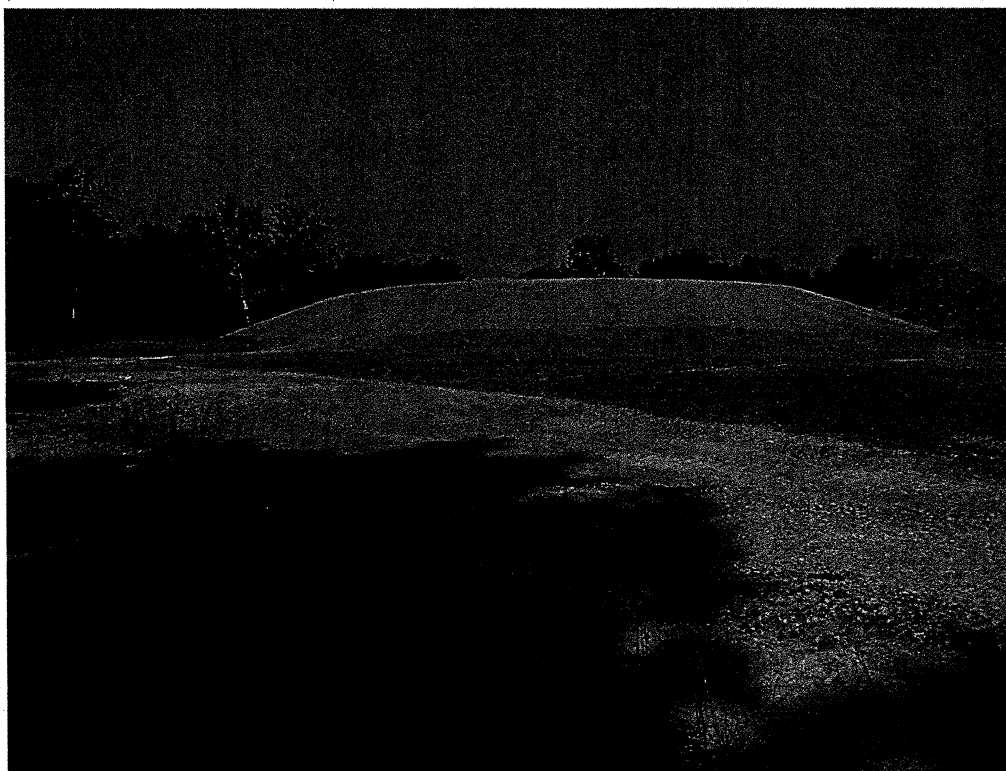
Slag Processing area - stockpiled lead-contaminated soil from residential soil removal was in poor condition.





Erosion rills on slope adjacent to Wildcat Creek.  
Proximity of soil pile to Wildcat Creek.

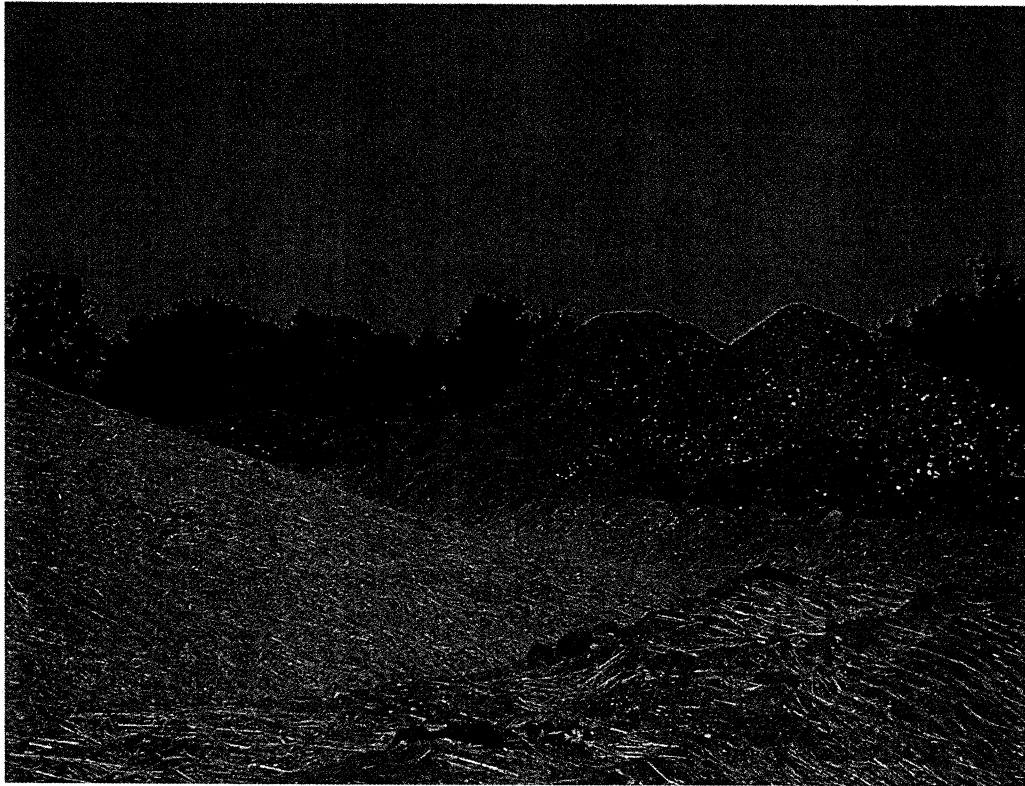




Slag Processing area, re-graded and hydro-seeded lead-contaminated (residential) soil pile.  
Erosion on creek side of slope has been corrected.





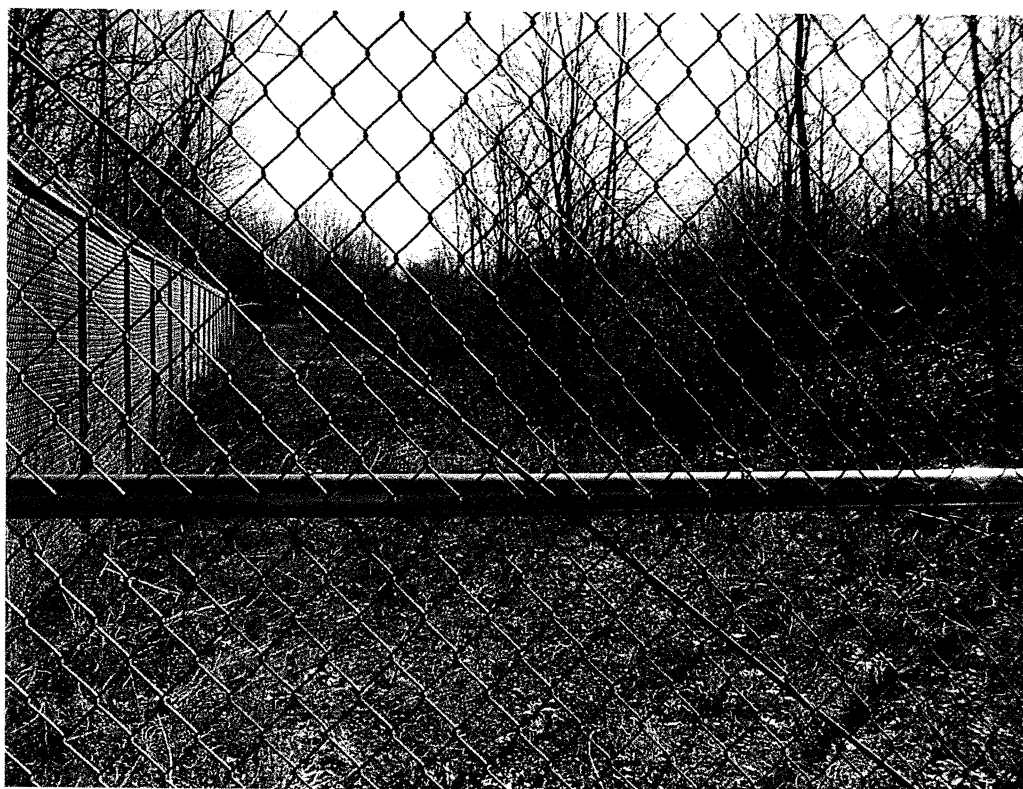


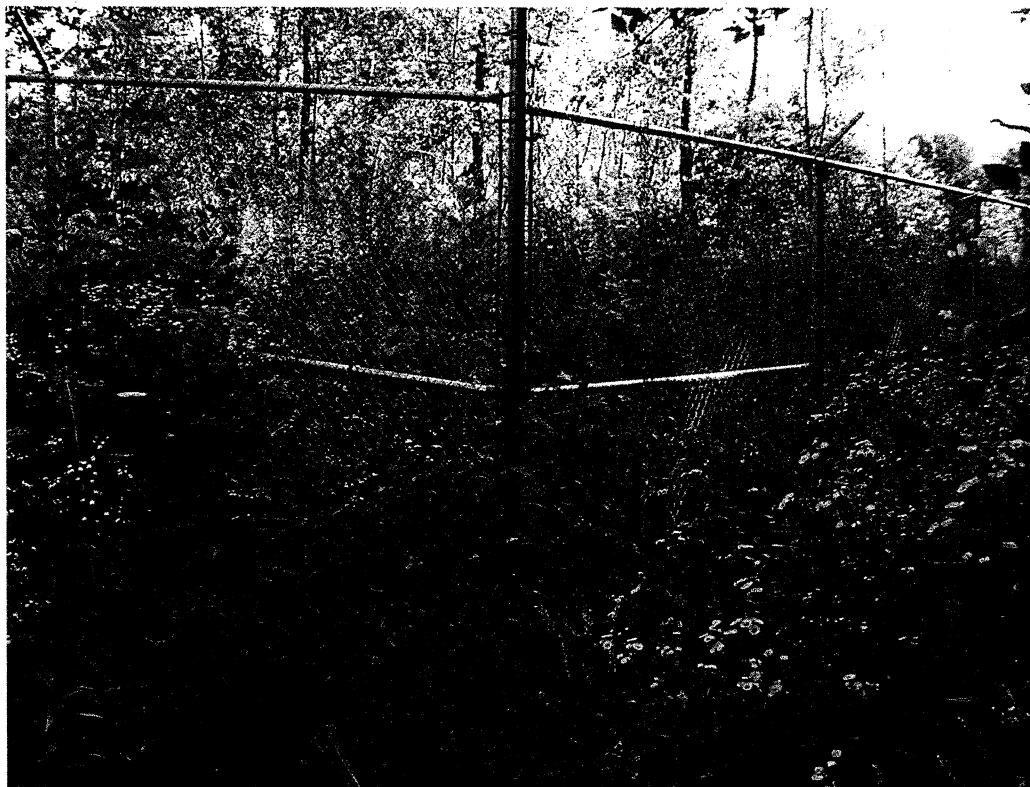
Slag Processing area, lead-contaminated soil pile and large mounds of slag.





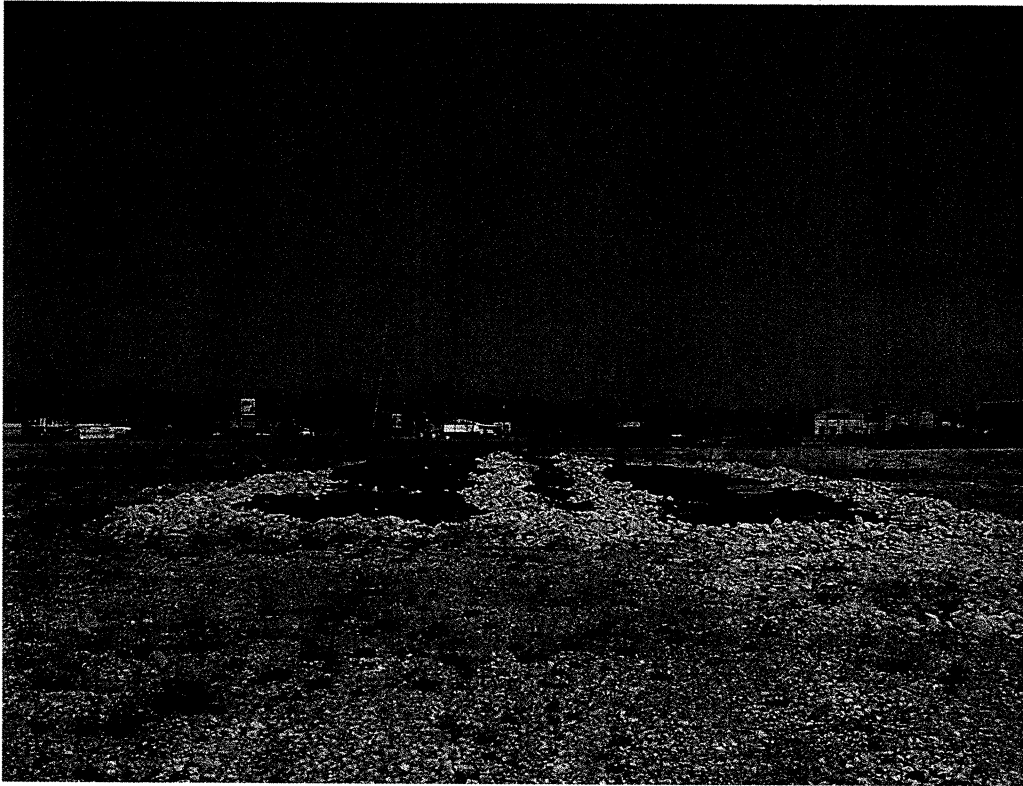
Crushed drum area.





Crushed drum area, new fence cut, probably done by older children who like to ride bicycles over slag piles within.





Main Plant, covered underground storage tank area, near former Building 23.  
Covered underground storage tanks, near former Building 29, clean rubble piles.

